

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

MICHAEL C. THREATT,

Plaintiff,

V.

**SYLACAUGA HOUSING
AUTHORITY,**

Defendant.

Civil Action No.

20-CV-00096-ACA

**PLAINTIFF'S MOTION RESPONSE TO
DISQUALIFY WINSTON COOKS, LLC**

COMES NOW, the undersigned attorney of record (Roderick T. Cooks) , and responds to the Defendants' Motion to Disqualify as follows:

1. On January 20, 2020, the Plaintiff filed the instant lawsuit against the Sylacauga Housing Authority. [Doc.#1].
2. On February 25, 2020, undersigned counsel filed a Notice of Appearance on behalf of himself and his firm on behalf of the Plaintiff. [Doc.#15].
3. Prior to entering into this case on February 25, 2020, undersigned counsel and his firm, Winston Cooks, LLC, had no involvement in the Plaintiff's action. Furthermore, undersigned counsel nor his firm have no personal knowledge of any legal matters related to the Sylacauga Housing Authority. Moreover, the undersigned still does not have any personal knowledge of any legal matters related to any representation of the Sylacauga Housing Authority prior to he and his firm entering into this case. Undersigned counsel will testify to the same in any hearing convened by this Court.

4. Federal common law govern motions to disqualify. *Herrmann v. GutterGuard, Inc.*, 199 Fed.Appx. 745, 752 (11th Cir.2006) (per curiam). “The party bringing the motion to disqualify bears the burden of proving the grounds for disqualification.” *Id.* Because a “disqualification order ‘is a harsh sanction, often working substantial hardship on the client,’ ” it should “ ‘be resorted to sparingly.’ ” *Id.* (quoting *Norton v. Tallahassee Mem’l Hosp.*, 689 F.2d 938, 941 n. 4 (11th Cir.1982)).

5. Sylacauga Housing Authority's request that any alleged conflict be given an expansive automatic “irrebuttable presumption” imputed to co-counsel, Rod Cooks and Lee Winston, is contradicted by *Brennan’s Inc. v. Brennan's Restaurants, LLC*, 590 F.2d 168, 174 (5th Cir. 1979), which is cited by the Defendants.

6. The court held that, “If the court finds that Mr. Wegmann previously represented plaintiff and defendants jointly, we can see no reason why Mr. Sprung should be disqualified. As between joint clients there can be no “confidences” or “secrets” unless one client manifests a contrary intent. See *Garner v. Wolfenbarger*, 430 F.2d 1093, 1103 (5th Cir. 1970), *Cert. denied*, Sub nom. *Garner v. First American Life Insurance Co.*, 401 U.S. 974, 91 S.Ct. 1191, 28 L.Ed.2d 323 (1971); ABA Code of Professional Responsibility, DR 4-101 (1970). *Brennan’s, Inc. v. Brennan’s Restaurants, Inc.*, at 173. Defendants’ motion seeks to deprive Mr. Threatt of any counsel and render him pro-se.

7. Undersigned counsel has not reviewed or discussed any privileged or confidential information regarding any representation of the Sylacauga Housing Authority. Undersigned has not discussed or reviewed any privileged or confidential information obtained by any alleged representation of the Sylacauga Housing Authority.

Based on the foregoing, undersigned counsel requests that any disqualification not be imputed to him or his firm.

Respectfully submitted,

/s/ Roderick T. Cooks
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on all persons listed below via the Court's CM/ECF filing system:

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Done this the 13th day of **November, 2020.**

/s/Roderick T. Cooks
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